

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
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ALFONSO MARTINEZ,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Respondent.

HON. R. RAGGI
United States District Judge

CV 03-6505
DOCKET NO: 91-1332(RR)
MOTION TO RETURN PROPERTY
PURSUANT TO RULE 41(g) OF RULES
OF CRIMINAL PROCEDURES

BLOOM, M.J.

AND COMES NOW the plaintiff, Alfonso Martinez, acting pro-se in this instant matter, and respectfully request of this Honorable Court, for the return of his property seized when he was arrested and that was never returned to him. And, pursuant to Rule 41(g) of the Criminal Procedures, a person aggrieved by an unlawful search and seizure of property or by deprivation of property may move for the property's return.

In support of said request, plaintiff aver as follows:

(1) After having requested Todd M. Merer, Esq., by attorney, to file for the return of my property, since 2001, I never again receive any kind of letter or documents pertaining to the above-mentioned. And having waited for the returnable and response thereof from my attorney, plaintiff decided to move on his own for

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the return of his property.

(2) On or before December 5, 1991, plaintiff was arrested for said offense and, in November 6, 1992, plaintiff was sentenced to a term of twenty-two(22)years. And on or about July 12, 1996, plaintiff sentence was amended to nineteen(19)-years.

(3) It has been well over thirty-two(32)-months that a response or disposition to this matter, since Mr. Merer filed for the return of his property.

(4) It is evident that the government have determined not to move for response/judgment on this matter.

(5) It should therefore be determined that plaintiff may be entitled to relief for the return of his property under (1) Civil Equitable Principles consistent with Mora v. United States, 955 F.2d 156 (2d Cir. 1992), (II) The Tucker Act, 28: 2671 et Seq., or (IV) Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971). See also Onwubiko v. United States, 969 F.2d 1392, 1397-99 (2d Cir. 1992).

Wherefore, Martinez prays this Honorable Court to grant him the return of his property, as well as such other and further relief that the Court may deem just and proper, in furtherance of public interest.

Dated: 12-16-03

Respectfully submitted,

Alfonso Martinez

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